

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JAMES SHIVE,

Plaintiff,

v.

CV 15-406 KK/WPL

AMAZON.COM INC.; EBAY, INC.;
JOHN LAVECCHIA; J&C BASEBALL
CLUBHOUSE, INC.; SEARS HOLDING
CORPORATION; UNBEATABLE
SALE.COM INC.; and WAL-MART STORES, INC.;

Defendants.

ORDER TO SHOW CAUSE

This matter is before the Court *sua sponte*. Federal Rule of Civil Procedure 4(m) provides in part:

If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. . . .

More than 120 days have elapsed since this action was commenced, and the record reflects that Defendants J&C Baseball Clubhouse, Inc.; John LaVecchia; and eBay, Inc., have not been served.

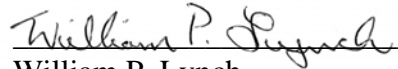
IT IS THEREFORE ORDERED that, no later than **October 28, 2015**, Plaintiff must either effect service or provide the Court with a written explanation why service has not been effected. **If Plaintiff fails to respond within the time allotted, these defendants will be dismissed without prejudice.**

A true copy of this order was served on the date of entry--via mail or electronic means--to counsel of record and any *pro se* party as they are shown on the Court's docket.

Additionally, the record reflects that Defendant Unbeatable Sale.com Inc. entered an appearance on June 22, 2015. (Docs. 6, 7.) The record does not reflect that Unbeatable Sale has filed an answer. The last activity in the case with respect to this defendant was its entry of appearance on June 22, 2015.

Under the rules of this Court, a “civil action may be dismissed if, for a period of ninety (90) calendar days, no steps are taken to move the case forward.” D.N.M.LR-Civ. 41.1.

IT IS THEREFORE ORDERED that Unbeatable Sale will be dismissed without prejudice unless, no later than **October 28, 2015**, good cause is shown for failing to move the case forward with respect to this defendant.


William P. Lynch
United States Magistrate Judge

A true copy of this order was served on the date of entry--via mail or electronic means--to counsel of record and any *pro se* party as they are shown on the Court's docket.